

## REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

### NOTICE OF NON-COMPLIANT AMENDMENT - TRAVERSED

The 30 May 2008 Notice of Non-Compliant Amendment asserts: "The cancelling of claim 11 was not proper because claim 11 is an original patent claim. Claim 11 should be shown with the whole claim bracketed." **STRONG TRAVERSAL IS APPROPRIATE.**

More particularly, 37 CFR 1.173 and MPEP Chapter 1400 indicate that cancellation of a patent claim within an Amendment paper, should be via a statement cancelling the claim without presentation of the text of the claim. To reiterate relevant text, 37 CFR 1.173(b)(2) states (in relevant part): "...Each changed patent claim and each added claim must include markings pursuant to paragraph (d) of this section, **expect that a patent claim or added claim should be canceled by a statement canceling the claim without presentation of the text of the claim.**" MPEP 1453(II)(C) (see MPEP Rev. 5, Aug 2006, page 1400-77) states (in relevant part): "37 CFR 1.173(b)(2) requires that: ...(C) **A patent claim should be canceled by a direction to cancel that claim**, there is **no need to present the patent claim surrounded by brackets**,". Finally, MPEP 1453(V)(B)'s "Example (3)" (see MPEP Rev. 5, Aug 2006, page 1400-78) states (in relevant part): "**To cancel an original**

**patent claim, in writing, direct cancellation of the patent claim, e.g., Cancel claim 6.”**

In view of the foregoing, it can be clearly seen that Applicant's 3 April 2002 Amendment's instructions to "Please cancel claim 11 without prejudice or disclaimer." **was proper**. Accordingly, **reconsideration and withdrawal of the 30 May 2008 Notice of Non-Compliant Amendment, are respectfully requested.**

#### **SIGNIFICANT REISSUE PROSECUTION DELAYS NOTED**

The significant reissue prosecution delays within this reissue application are respectfully noted. Applicant and the Undersigned respectfully request that subsequent handling of this reissue application be expedited, and that the application (presently containing only allowed claims) be moved to allowance immediately.

### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### **CONCLUSION**

In view of the foregoing remarks, Applicant respectfully submits that the claims as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.30789R00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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